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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/893,471	Applicant(s) BANERJEE ET AL.	
	Examiner Russell S. Glass	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/8/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The rejection of claims 21-30 have been withdrawn.

Claim Rejections - 35 USC § 101

2. The rejection of claims 21-30 have been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 11-14, 21, 22, 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Itzhaki, (U.S. Pub. 2002/0010616).
5. As per claim 1, Itzhaki discloses a method for providing an interactive counseling session, (Itzhaki, abstract), comprising:
 - (a) receiving a counseling request from at least one patient via a computer network, (Itzhaki, ¶ 11);
 - (b) in response to receipt of said counseling request, identifying a counselor, (Itzhaki, ¶ 11); and

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(c) establishing an interactive counseling session between said at least one patient and the identified counselor, (Itzhaki, Abstract; ¶ 40-44).

6. As per claim 2, Itzhaki discloses the method of claim 1 including the additional steps of:

(a) before said establishing step, interactively determining session preferences from said at least one patient, (Itzhaki, ¶ 11, 38); and

(b) at session end, handling administrative tasks including updating time records for said at least one patient and said counselor, (Itzhaki, ¶ 44, 45)(prompting to buy more session time or open pre-paid account is considered to be analogous to updating time records because the records at session end reflect that paid session time has been used since the start of the session).

7. As per claim 3, Itzhaki discloses the method of claim 2 including the step of: during an interactive counseling session, storing elapsed time for said at least one patient and said counselor, (Itzhaki, ¶ 44).

8. As per claim 4, Itzhaki discloses the method of claim 3 wherein said identifying step includes: consulting a stored roster of counselors maintained by specialty and availability, (Itzhaki, Abstract; ¶ 8-14, 38).

9. As per claim 11, Itzhaki discloses an apparatus for providing an interactive counseling session, comprising:

(a) means for receiving a counseling request from at least one patient via a computer network, (Itzhaki, Abstract; ¶ 8-14);

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(b) means operable in response to receipt of said counseling request, for identifying a counselor, (Itzhaki, Abstract; ¶ 8-14); and

(c) means for establishing an interactive counseling session between said at least one patient and the and the identified counselor, (Itzhaki, Abstract; ¶ 8-14).

10. As per claim 12, Itzhaki discloses the apparatus of claim 11 additionally including:

(a) means, active before said means for establishing, for interactively determining session preferences from said at least one patient, (Itzhaki, ¶ 11, 38); and

(b) means active at session end, for handling administrative tasks including updating time records for said at least one patient and said counselor, (Itzhaki, ¶ 44, 45)(an apparatus for prompting to buy more session time or open pre-paid account is considered to be analogous to an apparatus for updating time records because the records at session end reflect that paid session time has been used since the start of the session).

11. As per claim 13, Itzhaki discloses the apparatus of claim 12 further including:

means active during an interactive counseling session, for storing elapsed time for said at least one patient and said counselor, (Itzhaki, ¶ 44).

12. As per claim 14, Itzhaki discloses the apparatus of claim 13 wherein said means for identifying includes:

means for consulting a stored roster of counselors maintained by specialty and availability, (Itzhaki, Abstract; ¶ 8-14, 38).

13. As per claim 21, Itzhaki discloses a computer program product for managing

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interactive multiparty counseling sessions comprising a computer readable medium having computer executable program code embodied thereon including:

- (a) means for selectively connecting via a computer network with one or more of a plurality of counselors, (Itzhaki, Abstract; ¶ 8-14, 28);
- (b) means for receiving via a computer network a request for counseling from at least a patient, (Itzhaki, Abstract; ¶ 8-14, 28); and
- (c) means, operable in response to said means for receiving, for initiating a counseling session between a counselor and at least a patient, (Itzhaki, Abstract; ¶ 8-14, 28).

14. As per claim 22, Itzhaki discloses the computer program product of claim 21 wherein said means for receiving comprises:

- (a) means for determining a status for a patient requesting counseling, (Itzhaki, ¶ 37); and
- (b) means for interactively learning patient preferences, (Itzhaki, ¶ 11, 38).

15. As per claim 24, Itzhaki discloses the computer program product of claim 21 wherein said means for initiating additionally includes:

- (a) means for polling a roster of counselors specializing in said subject matter, (Itzhaki, Abstract; ¶ 8-14, 29-39);
- (b) means for choosing a counselor from said roster as a function of availability to counsel, (Itzhaki, Abstract; ¶ 8-14, 29-39); and

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(c) means, in response to said means for choosing, for assigning a chosen counselor to said patient, (Itzhaki, Abstract; ¶ 8-14, 29-39).

Claim Rejections - 35 USC § 103

16. Claims 5-9, 15-19, 23, and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itzhaki in view of Douglas et al., (U.S. 6,039,688).

17. As per claim 5, Itzhaki discloses the method of claim 4 wherein said receiving step includes:

(a) determining whether said at least one patient desires to engage in private communication via a computer network during an interactive counseling session;

(b) responsive to said determining step, contacting the other party for learning whether said party is available to participate in said interactive counseling session; and if so,

(c) establishing communication between said party and said patient, (Itzhaki, Abstract; ¶ 8-14, 29, 37-39).

Although Itzhaki discloses the use of a chat room, Itzhaki fails to expressly disclose the inclusion of a third party into the communication network. Douglas discloses an electronic meeting room wherein a third party can participate in group counseling sessions, (Douglas, col. 11, lines 31-39, 51, 52; col. 13, lines 9-14, 41-43).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation would be to create a convenient way for patients to attend group support sessions, thus enhancing the overall therapeutic value of group

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counseling and support, (Douglas, col 1, lines 49&50; col. 2, lines 57-59, col. 11, lines 17-20).

18. As per claim 6, The collective system of Itzhaki and Douglas disclose the method of claim 5 comprising the additional steps of:

- (a) inquiring whether said counselor desires, during said interactive counseling session, consultation with at least a different counselor; and
- (b) responsive to said inquiring step, establishing private communication between said counselor and said at least a different counselor, (Douglas, col. 3, lines 3-9; col. 13, lines 1-13, 27-35, 41-43).

Douglas discloses that professional case advisors and physicians have concurrent access to the network, and that the network provides the ability for users to engage in private communication through either a private chat room or a secure telephone line. This ability is considered to be analogous to the method in claim 6.

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

19. As per claim 7, Itzhaki and Douglas disclose the method of claim 6, and collectively further disclose the method wherein said receiving step additionally comprises:

eliciting from said at least one patient a subject matter preference and a counselor preference, (Itzhaki, Abstract; ¶ 8-14, 29, 37-39). However, Itzhaki fails to disclose whether a one-on-one or group counseling session is requested. Douglas

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discloses that the conference room participants can select a private mentoring area for one-on-one mentoring, (Douglas, col. 13, lines 9-27).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

20. As per claim 8, the collective system of Itzhaki and Douglas suggest the method of claim 7 including the additional steps of:

- (a) responsive to said eliciting step seeking an existing appropriate group, (Douglas, col. 11, lines 3-39); and
- (b) in response to said seeking step indicating desirability of group counseling, (Douglas, col. 13, lines 9-27).

Neither Itzhaki nor Douglas disclose the further step of: verifying agreement of all patients in said existing group to accept said patient as a new group member; and

- (c) responsive to a negative outcome from said verifying step, advising said patient; and
- (d) thereafter inquiring of said patient a willingness to wait until at least another patient indicates willingness to be in a new group.

Douglas discloses that the conference room participants can select a private mentoring area for a private discussion between a small group, (Douglas, col. 13, lines 9-27). Furthermore, the unanimous verification feature would be obvious to one of ordinary skill in the art of group counseling because the privacy rights of patients in said existing group could be violated if a new patient was involved in the private counseling

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session without the permission of patients in said existing group. Also, regarding the steps of advising the patient of the negative outcome from said verifying step and inquiring a willingness to wait until at least another patient indicates willingness to be in a new group, Douglas provides for scheduling of group sessions. It is common knowledge that the act of scheduling often involves notifying someone that one option is unavailable and that a future option must be selected.

It would be obvious to one of ordinary skill in the art to combine Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

21. As per claim 9, The collective system of Itzhaki and Douglas disclose the method of claim 8. Itzhaki further discloses a method wherein said receiving step additionally includes:

- (a) determining when said patient wishes an appointment for said interactive counseling session; and
- (b) scheduling an appointment before said establishing step, (Itzhaki, Figs. 10, 11; ¶ 38).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference

22. As per claim 15, Itzhaki discloses the apparatus of claim 14 wherein said means for receiving includes:

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- (a) means for determining whether said at least one patient desires to engage in private communication via a computer network with a party during an interactive counseling session;
- (b) means responsive to said means for determining, for contacting said party for learning whether said party is available to participate in said interactive counseling session; and
- (c) means, active if party is available, for establishing communication between said party and said patient, (Itzhaki, Abstract; ¶ 8-14, 29, 37-39).

Although Itzhaki discloses the use of a chat room, Itzhaki fails to expressly disclose the inclusion of a third party into the communication network. Douglas discloses an electronic meeting room wherein a third party can participate in group counseling sessions, (Douglas, col. 11, lines 31-39, 51, 52; col. 13, lines 9-14, 41-43).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

23. As per claim 16, the collective system of Itzhaki and Douglas suggest the apparatus of claim 15 further comprising:

- (a) means for inquiring whether said counselor desires, during said interactive counseling session, consultation with at least a different counselor; and
- (b) means, responsive to said means for inquiring, for establishing private communication between said counselor and said at least a different counselor, (Douglas, col. 3, lines 3-9; col. 13, lines 1-13, 27-35, 41-43).

Douglas discloses that professional case advisors and physicians have concurrent access to the network, and that the network provides the ability for users to engage in private communication through either a private chat room or a secure telephone line. This is considered to be analogous to the apparatus in claim 6.

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

24. As per claim 17, the collective method of Itzhaki and Douglas disclose the apparatus of claim 16, and collectively further disclose an apparatus wherein said means for receiving additionally comprises:

means for eliciting from said at least one patient a subject matter preference and a counselor preference, (Itzhaki, Abstract; ¶ 8-14, 29, 37-39). However, Itzhaki fails to disclose whether a one-on-one or group counseling session is requested. Douglas discloses that the conference room participants can select a private mentoring area for one-on-one mentoring, (Douglas, col. 13, lines 9-27).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

25. As per claim 18, the collective system of Itzhaki and Douglas suggest the apparatus of claim 17 further including:

(a) means responsive to said eliciting step for seeking an existing appropriate group, (Douglas, col. 11, lines 3-39); and

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(b) means, active in response to said means for seeking, for indicating desirability of group counseling, (Douglas, col. 13, lines 9-27).

Neither Itzhaki nor Douglas disclose an apparatus for: verifying agreement of all patients in said existing group to accept said patient as a new group member; and

(c) means, responsive to a negative outcome from said means for verifying, for advising said patient; and

(d) means, thereafter active, for inquiring of said patient a willingness to wait until at least another patient indicates willingness to be in a new group.

Douglas discloses that the conference room participants can select a private mentoring area for a private discussion between a small group, (Douglas, col. 13, lines 9-27). Douglas discloses that the conference room participants can select a private mentoring area for a private discussion between a small group, (Douglas, col. 13, lines 9-27). Furthermore, the unanimous verification feature would be obvious to one of ordinary skill in the art of group counseling because the privacy rights of patients in said existing group could be violated if a new patient was involved in the private counseling session without the permission of patients in said existing group. Also, regarding the means for advising the patient of the negative outcome from said verifying step and inquiring a willingness to wait until at least another patient indicates willingness to be in a new group, Douglas provides for scheduling of group sessions. It is common knowledge that the act of scheduling often involves notifying someone that one option is unavailable and that a future option must be selected.

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It would be obvious to one of ordinary skill in the art to combine Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

26. As per claim 19, The collective system of Itzhaki and Douglas suggest the apparatus of claim 18. Itzhaki further discloses a apparatus wherein said means for receiving additionally includes:

- (a) means for determining when said patient wishes an appointment for said interactive counseling session; and
- (b) means for scheduling an appointment before said establishing step, (Itzhaki, Figs. 10, 11; ¶ 38).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

27. A per claim 23, Itzhaki discloses the computer program product of claim 22 wherein said means for learning additionally includes:

- (a) means for eliciting from said patient a subject matter preference; and
- (b) means for eliciting from said patient a counselor preference, (Itzhaki, Abstract; ¶ 8-14, 29, 37-39).

However, Itzhaki fails to disclose:

- (c) means for eliciting from said patient whether a one-on-one or group counseling session is requested. Douglas discloses that the conference room participants can select a private mentoring area for one-on-one mentoring, (Douglas, col. 13, lines 9-27).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

28. As per claim 25, Itzhaki discloses the computer program product of claim 21. However, Itzhaki fails to disclose a product additionally comprising:

means for establishing a group counseling session for a plurality of patients and a counselor. Douglas discloses an electronic meeting room wherein patients can participate in group counseling sessions, (Douglas, col. 11, lines 31-39, 51, 52; col. 13, lines 9-14, 41-43).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

29. As per claim 26, The collective system of Itzhaki and Douglas discloses the computer program product of claim 25. Douglas further suggests a program wherein said means for establishing includes:

- (a) means for determining whether a group already exists, (Douglas, col. 8, lines 36-55; col. 11, lines 31-39;
- (b) means for adding a new patient, (Douglas, col. 11, lines 3-39); and
- (c) means for advising a patient and determining whether said patient will wait until at least another patient is willing to be in a new group, (Douglas, col. 11, lines 31-39).

Douglas fails to disclose that the program adds a new patient upon verification of the agreement of all patients in said existing group. However, this feature would be

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obvious to one of ordinary skill in the art of group counseling because the privacy rights of patients in said existing group could be violated if a new patient was involved in the private counseling session without the permission of patients in said existing group.

Douglas also fails to disclose a means for advising a patient and determining whether said patient will wait until at least another patient is willing to be in a new group.

However, Douglas provides for scheduling of group sessions. It is common knowledge that the act of scheduling often involves notifying someone that one option is unavailable and that a future option must be selected.

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

30. As per claim 27, The collective system of Itzhaki and Douglas discloses the computer program product of claim 25. Itzhaki further discloses a program additionally including:

- (a) means for maintaining a roster of counselors by availability and specialty, (Itzhaki, Fig. 1; Fig. 4; ¶ 30-36);
- (b) means for maintaining patient usage and payment records, (Itzhaki, ¶ 39, 44, 45);
- (c) means for establishing and managing multiple communication events among said patients and said counselors, (Itzhaki, ¶ 37) (registration by a first time user suggests that multiple communication events will follow without the necessity of registration); and

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(d) means for scheduling subsequent individual and group sessions for said patients and said counselors, (Itzhaki, ¶¶ 38-40).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

31. As per claim 28, the collective system of Itzhaki and Douglas discloses the computer program product of claim 27. Itzhaki further discloses:
means for establishing communication during a session between said patient and a counselor, (Itzhaki, Abstract; ¶¶ 8-14, 29, 37-39).

Although Itzhaki discloses the use of a chat room, Itzhaki fails to expressly disclose the inclusion of a third party into the communication network shared by the patient and counselor. Douglas discloses an electronic meeting room wherein a third party can participate in group counseling sessions, (Douglas, col. 11, lines 31-39, 51, 52; col. 13, lines 9-14, 41-43).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

32. As per claim 29, the collective system of Itzhaki and Douglas discloses the computer program product of claim 28. Douglas further discloses:

means for selectively establishing communication among a plurality of counselors, (Douglas, col. 3, lines 3-9; col. 13, lines 1-13, 27-35, 41-43).

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Douglas discloses that professional case advisors and physicians have concurrent access to the network, and that the network provides the ability for users to engage in private communication through either a private chat room or a secure telephone line. This is considered to be analogous to the program in claim 29.

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

33. As per claim 30, the collective system of Itzhaki and Douglas discloses the computer program product of claim 29. Itzhaki further discloses a program wherein said scheduling means comprises:

instant messaging means for contacting said patients and said counselors, (Itzhaki, ¶ 14).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

34. Claims 10, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itzhaki in view of Bro, (U.S. 5,722,418).

35. As per claim 10, Itzhaki discloses the method of claim 1. However, Itzhaki fails to further disclose the method of claim 10 further including the additional step of:

selectably providing a transcript of said interactive counseling session to said counselor.

Bro discloses the step of selectably providing a transcript of said interactive counseling session to said counselor, (Bro, Col, 15, lines 14-33) (a permanent log or record is analogous to a transcript).

It would be obvious to one of ordinary skill in the art to combine Itzhaki and Bro. The motivation would be to use an authority figure such as a physician to provide interactive behavioral and motivational guidance to increase healthy behavioral changes to the patient, (Bro, col. 1, lines 27-32).

36. As per claim 20, Itzhaki discloses the apparatus of claim 11. However, Itzhaki fails to disclose an apparatus including the additional step of:

means selectably operable by said counselor for providing a transcript of said interactive counseling session to said counselor.

Bro discloses the step of selectably providing a transcript of said interactive counseling session to said counselor, (Bro, Col, 15, lines 14-33) (a permanent log or record is analogous to a transcript).

It would be obvious to one of ordinary skill in the art to combine Itzhaki and Bro. The motivation is as provided in the rejection of claim 10 and incorporated herein by reference.

37. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over the collective system of Itzhaki and Douglas as applied to claims 5-9, 15-19, 23, 25-30 above, and further in view of Bro.

38. As per claim 31, the collective system of Itzhaki and Douglas disclose an apparatus for managing an interactive, multiparty counseling service comprising:

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- (a) means for receiving a request for counseling from a patient, (Itzhaki, Abstract; ¶ 8-14);
- (b) means for determining patient status, (Itzhaki, ¶ 37);
- (c) means responsive to said means for determining for updating or creating a patient record, (Itzhaki, ¶ 44, 45)(a means for prompting to buy more session time or open pre-paid account is considered to be analogous to a means for updating records because the records at session end reflect that paid session time has been used since the start of the session, thus updating the record);
- (d) means for eliciting patient preferences, (Itzhaki, ¶ 11, 38);
- (e) first means responsive to said means for eliciting for obtaining information for a third party participant, (Douglas, col. 11, lines 31-39, 51, 52; col. 13, lines 9-14, 41-43);
- (f) second means responsive to said means for eliciting for finding a counselor, (Itzhaki, Abstract; ¶ 8-14, 29, 37-39), and group, (Douglas, col. 11, lines 3-39), for said patient ;
- (g) third means responsive to said eliciting means for scheduling an appointment for said patient, (Itzhaki, Figs. 10, 11; ¶ 38);
- (h) means responsive to said means for finding for notifying a counselor and group of said patient's upcoming appointment, (Itzhaki, ¶ 40-43)(notifying a counselor via a chat room would also notify the group logged into the chat room as well);
- (i) means, active at appointment time, for setting up a communication session among said patient, said counselor, said group and any third party, (Douglas, col. 11, lines 31-39, 51, 52; col. 13, lines 9-14, 41-43); and

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(j) means for tracking and storing session metrics for administrative purposes, (Itzhaki, ¶ 44, 45)(a means for prompting to buy more session time or open pre-paid account is considered to be analogous to a means for tracking and storing session metrics for administrative purposes because the records at session end reflect that paid session time has been used and additional payment is required to proceed).

However, the collective system of Itzhaki and Douglas fails to disclose:

(k) means selectively operable for providing a session transcript to said counselor, (Bro, Col, 15, lines 14-33) (a permanent log or record is analogous to a transcript).

It would be obvious to one of ordinary skill in the art to combine the teachings of Itzhaki and Douglas. The motivation is as provided in the rejection of claim 5 and incorporated herein by reference.

It would be obvious to one of ordinary skill in the art to combine the collective system of Itzhaki and Douglas with Bro. The motivation would be to use an authority figure such as a physician to provide interactive behavioral and motivational guidance to increase healthy behavioral changes to the patient, (Bro, col. 1, lines 27-32).

Response to Arguments

Applicant's arguments filed May 8, 2006 have been fully considered but they are not persuasive for the following reasons:

1. Contrary to applicant's argument, Itzhaki clearly discloses receiving a counseling request from at least a patient and establishing an interactive counseling session

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between said at least one patient and the and the identified counselor, (Itzhaki, Abstract; ¶ 8-14).

2. Contrary to applicant's argument, Douglas discloses an electronic meeting room wherein a patient can participate privately with a third party in group counseling sessions, (Douglas, col. 11, lines 31-39, 51, 52; col. 13, lines 9-14, 41-43). If the private, third-party participation feature of Douglas is combined with the interactive counseling session of Itzhaki as suggested by the references cited in the rejection above, then the invention of claim 5 is rendered obvious. Furthermore, Douglas does disclose direct counselor-patient contact, (Douglas, col. 13, lines 41-43). Additionally, a patient can easily contact a third-party of the patients choice during the one-on-one counseling session by using the coffee shop icon, (Douglas, col. 13, lines 9-11).

3. Applicant argues that the combination of Itzhaki and Douglas fails to disclose consultation between one counselor and another. However, Douglas discloses communication between a physician and a case advisor, both of which are considered to be counselors, (Douglas, col. 7, lines 54-65). Although Douglas fails to disclose that the physician is connected to the system, this feature is disclosed by Itzhaki, (Itzhaki, Abstract; ¶ 8-14).

4. In response to applicant's argument that Douglas is merely a peer support group and that applicant discloses counselor-patient communication, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed

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invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

5. Contrary to applicant's argument, Bro does teach a counselor requesting the transcript because in bro the transcript can be reviewed by a doctor or trainer, (Bro, col. 15, lines 19-25). A doctor or trainer is considered to be a counselor.

6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSG
7/22/2006

RSG


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER